## Remarks/Arguments

This is in reply to the official action of August 2, 2006. The only amendment made is to correct an obvious typographical type error in claim 31. This amendment clearly raises no new issues and presents no new matter. It was not made earlier since the discovery of the error only occurred upon review of the claims with respect to this response.

Allowance of claim 2 and claims 14-30 is noted with appreciation.

Claim 1 has been rejected under 35 U.S.C. 102 as being anticipated by U.S. Patent 6.235.014 to Abe et al. This rejection is improper and should be withdrawn.

Claim 1 requires "A device for controlling functions of a microscope within a microscope system, said device comprising: a stand base portion, a central display integrated into the stand base portion, wherein the central display can be used to perform a plurality of settings of the microscope within the microscope system, to call saved settings of the microscope within the microscope system and to receive warning messages or notifications from the microscope within the microscope system."

In applying Abe et al., the Examiner states: "Abe discloses a device for controlling microscope functions including a display (3) integrated into a stand base portion, wherein the display can be used to perform settings of the microscope, call saved settings, and display warnings or notifications from the system (see also figs. 1-3).

This statement by the Examiner with respect to the disclosure of Abe et al. is incorrect and even if it were correct is insufficient to support a rejection under either 35 U.S.C. 102 or 103.

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Present claim 1 requires: A device for controlling functions of a microscope within a

microscope system..." It is clear that the claim requires control of microscope functions as

microscope functions would be understood by one skilled in the art. A "microscope" as defined

in McGraw Hill's Dictionary of Scientific and Technical Terms, 2nd edition, (1978) at page

1023 as "An instrument through which minute objects are enlarged by means of a lens or lens

system". The definition has not significantly changed since 1978. Reference may presently be

had on-line to http://en.wikipedia.org/wiki/Microscope. "A microscope ... is an instrument for

viewing objects that are too small to be seen by the naked or unaided eye." (word origin

information omitted).

It is therefore clear to any person of ordinary skill in the art that "functions of a

microscope" or "settings of the microscope", as in claim 1, must be for a microscope, not for

some unrelated or ancillary apparatus or function, e.g. changing intensity or direction of a laser is

not a function of a microscope unless it relates to seeing minute objects.

Abe et al. does not disclose or suggest anything at all concerning control of any function

of a microscope using a display and in making such an assertion, the Examiner is over extending

the reference based upon hindsight application of the present invention beyond any reasonable

disclosure or suggestion actually within the Abe et al. reference.

Contrary to the position of the Examiner, Abe et al. does not disclose or suggest a device

for controlling microscope functions; does not disclose or suggest a display (3) integrated into a

stand base portion; and does not disclose or suggest a display that can be used to perform

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settings of the microscope, call saved settings, and display warnings or notifications from the

system (see also figs. 1-3). Abe et al is in fact irrelevant to the present invention.

Abe et al does not disclose or suggest any such limitations or requirements.

Abe et al does not disclose or suggest a central display integrated into the stand base

portion. The display of Abe et al. has a display (control panel 3) integrated into a laser oscillator

1 not into a stand base portion as has always been required by claim 1. For this reason alone

the rejection under 35 U.S.C. 102 must be withdrawn since each and every limitation of the

claim must be disclosed in the reference for such an anticipation rejection under 35 U.S.C. 102 to

be proper. Further, there is no suggestion at all of incorporating a central display into a stand

base portion of a microscope system. In addition there is no disclosure or suggestion of "a

central display is used to perform a plurality of settings of the microscope within the

microscope system" as presented in claim 1 as amended.

The control panel of Abe et al does not appear to be directed to controlling any functions

of a microscope and certainly not a plurality of such microscope functions. Rather, the control

panel of Abe et al is directed to controlling laser treatment energy for laser eye surgery and there

appears to be no suggestion of any control of microscope function. The control panel of Abe et

al. can in no way be used to control "a plurality" of the functions of a microscope and no such

display having such ability is remotely suggested.

It should be further pointed out that new claim 31, depending from claim 1, requires that

the plurality of settings that can be performed include at least one of objective selection and

secondary magnification. There is absolutely no suggestion in Abe et al of any display or control

capable of performing either of such settings and certainly not in conjunction with other

microscopic functions.

The Examiner has rejected claims 3 and 31 under 35 U.S.C. 103 as being unpatentable

over Abe (et al) above.

With respect to claim 3, this is a new ground of rejection not necessitated by any

amendment made by the Applicants. All discussion by the Examiner with respect to this

new ground of rejection relates to menu structure that was in claim 3 originally. THIS IS

THUS AN IMPROPER FINAL REJECTION THAT MUST BE WITHDRAWN.

In any case the rejection cannot be upheld. After stating that "Abe does not disclose the

display to display main, sub-main, and submenus", the Examiner simply states, without citation

of any supporting reference, that "this type of 'nested' menu structure is very well known and

commonly used in display systems. It would have been obvious to use such a menu structure

including these types of menus in Abe's system in order to organize the information and control

systems, thus making them easy to use." There is no discussion at all by the Examiner of their

unique use in conjunction with microscopic functions and no cited support for use with

microscopic functions or even for their use with anything. The use of such a system to control

microscopic functions is unique and unobvious to one skilled in the art, especially within a

display in a microscope stand.

With respect to claim 31, the rejection is even more clearly improper. The Examiner

states "Regarding claim31, Abe does not specifically teach the display to control either objective

selection or magnification selection." The Examiner then simply states without any reference in

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support, "However, Abe discloses both of these functions in relation to a microscope. It would

have been obvious to the ordinary skilled artisan at the time of the invention to use Abe's

display/control to control either or both of these functions in order to provide the user with

convenient location of all of the controls of the system, thus making the system more efficient

and compact."

This is impermissible hindsight at its most egregious. Abe et al does not disclose or

suggest the use of a display to control microscope functions at all, yet the Examiner takes the

unsupported hindsight position that it would be obvious to take manual controls from a

microscope associated with the Abe et al. structure and incorporate them into a display that Abe

et al only uses for treatment lasers. If the advantages are so clear, as the Examiner would have

us believe, why did Abe et al. not actually incorporate microscopic controls into the display. The

answer is clear, prior to the present invention, it was not obvious to one skilled in the art from

Abe et al., to incorporate microscope controls into a display and certainly not within a

microscope stand.

The rejections should be withdrawn, claims 1, 3 and 31 should be allowed and claims 4-

13 depending from claim 1 should be rejoined and also allowed.

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## **Conclusion**

Applicant therefore respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,

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